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PATENT  
Attorney Docket No. 4329.2702

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:	)	
	)	
Akihito Tsukamoto	)	Group Art Unit: 2643
	)	
Application No.: 09/995,637	)	Examiner: Tuan Pham
	)	
Filed: November 29, 2001	)	Confirmation No.: 1687
	)	
For: COMMUNICATION DEVICE AND	)	
METHOD FOR CONTROLLING	)	
THE SAME	)	

**Mail Stop Petition**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT**  
**ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

The above-identified application became abandoned for failure to file a timely and proper response to the non-final Office action mailed on February 9, 2005, which set a three (3) month period for response. The abandonment date of this application is May 10, 2005 (i.e., the day after the expiration date of the period set for response plus any extensions of time obtained therefor). The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 C.F.R. § 1.137(b) was unintentional.

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Applicant hereby petitions for revival of this application. The petition fee of \$1,500.00 is enclosed.

In addition, Applicant submits concurrently herewith a continuing application under 37 C.F.R. § 1.53(b) as the required reply to the non-final Office Action mailed on February 9, 2005.

Since this Petition is being filed more than one (1) year after the date of abandonment of this application on May 10, 2005, Applicant provides the following further information and showing required under Manual of Patent Examining Procedure § 711.03(c)II.D.

Applicant has not received a Notice of Abandonment for this application. Applicant's undersigned representative first became aware of abandonment of this application on June 1, 2006, when the undersigned received an e-mail from a patent engineer employed by the Assignee, Kabushiki Kaisha Toshiba, instructing the undersigned to add claims to this application. In order to carry out these instructions, the undersigned checked the status of the application in the electronic docket system maintained by the undersigned's firm (Finnegan, Henderson, Farabow, Garrett & Dunner, LLP). The docket system indicated this application had been abandoned according to instructions from the Assignee's Japanese representative, which is Suzuye & Suzuye, a Japanese patent law firm handling this matter for Assignee. On June 1, the undersigned requested the file for this application from an off-site storage location. Upon receiving the file, the undersigned found in the file a faxed copy of a letter dated August 28, 2003, from Suzuye & Suzuye, instructing us to permit application no.

10/015,590 to go abandoned by failing to respond to the outstanding Office Action in that case. The case reference number of the undersigned's firm for application no. 10/015,590 is 04329.2707, while the case reference number for this application is 04329.2702. It therefore appears that the docketing staff of the undersigned's firm may have misread the reference number on the faxed copy of the letter intended for case no. 04329.2707 as instructions to abandon case no. 04329.2702. That apparent error was not discovered during subsequent internal approval and processing of the abandonment instructions, during which the faxed copy of the letter was placed in the application file for 04329.2702. The undersigned also checked the file for case no. 04329.2707 and found therein an original version of the letter dated August 28, 2003. Case No. 04329.2707 is also indicated as abandoned in the docket system of the undersigned's firm and it appears that abandonment may have been processed on the basis of subsequently receiving the original version of the letter dated August 28, 2003.

Upon the undersigned's firm receiving the Office Action dated February 9, 2005, it appears that Office Action was placed in the file for this application and not reported to Suzuye & Suzuye because the docket system already erroneously indicated that Suzuye & Suzuye had instructed that this application was to be abandoned. Thus, despite the exercise of due care and diligence, this application became abandoned.

The undersigned reported the abandonment of this application to Assignee's patent engineer by e-mail on June 6, and to Suzuye & Suzuye by letter sent by facsimile on June 7, 2006. In the letter dated June 7, 2006, the undersigned generally explained the circumstances resulting in the erroneous abandonment of this application and provided a copy of the Office Action dated February 9, 2005. The undersigned also explained the need to file a Petition to Revive along with either a response to the Office Action or a continuing application under 37 C.F.R. § 1.53(b). On June 8, Suzuye & Suzuye sent a letter to the undersigned's firm instructing that a Petition to Revive and a continuing application under 37 C.F.R. § 1.53(b) should be filed. The undersigned has therefore proceeded to prepare and file this Petition and the accompanying continuing application under 37 C.F.R. § 1.53(b).

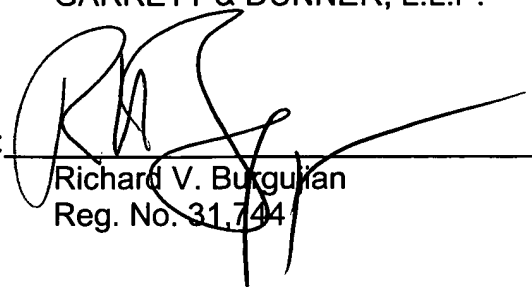
If there are any other fees due in connection with the filing of this Petition, including any fees required for an extension of time under 37 CFR § 1.136, such an extension is requested, and the Commissioner is authorized to charge any related fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: June 20, 2006

By:



Richard V. Burgulian  
Reg. No. 31,744